United States House Committee on Ways & Means
The President's Fiscal Year 2020 Budget
Thursday March 14, 2019
Questions for the Record for Treasury Secretary Steven Mnuchin

Representative Mike Thompson

Question:
Secretary Mnuchin, in November of 2018, I sent a letter to the Internal Revenue Service Commissioner, The Honorable Charles Rettig, raising concerns about the IRS reinterpretation of the statute governing Private Activity Bonds (PABs) to preclude their use for projects serving veterans, farmworkers, and other special populations. I have not yet received a reply to that letter. I remain greatly concerned by the IRS reinterpretation as it conflicts with Congressional intent for the General Public Use criteria applying to PABS to mimic that governing the Low-Income Housing Tax Credit. In fact, this unpublished IRS policy has halted multiple shovel-ready affordable housing projects, not only in California, but across our country. Particularly as my district continues to recover from devastating wildfires that destroyed thousands of homes in an area where affordable housing was already greatly need, the IRS reinterpretation of PABs has had a chilling effect on investment in a time when new housing is needed most.

- Why have I not received a response to my November 2018 letter to Commissioner Rettig? When will I receive a response?
- When did the IRS reinterpret the General Public Use rule as it applied to PABS, and what prompted this change?
- Why did the IRS not publish this decision? How is the reinterpretation being communicated to investors and stakeholders?
- Is the IRS aware that this decision is currently stalling multiple shovel-ready veteran housing projects across the country?
- What actions has the IRS taken to mitigate the chilling effect its reinterpretation of the General Public Use rule has had on investments in affordable housing projects?
- Will the IRS issue guidance to clarify that the General Public Use criteria applying to LIHTC also applies to PABs?

Answer:
On April 3, 2019 the Treasury Department and the Internal Revenue Service (IRS) released Rev. Proc. 2019-17, which provides favorable public administrative guidance to address this issue regarding the general public use requirements for qualified residential rental projects financed with tax-exempt bonds under section 142(d) of the Internal Revenue Code (Code). Rev. Proc. 2019-17 coordinates these requirements with the provisions of Code section 42(g)(9) regarding the permissibility of certain housing preferences for purposes of the low income housing credit. Specifically, this guidance provides that a qualified residential rental project (as defined in Code section 142(d)) does not fail to meet the general public use requirement applicable to exempt facilities solely because of occupancy restrictions or preferences that favor tenants described in Code section 42(g)(9) (for example, certain housing preferences for military veterans). Rev.

Proc. 2019-17 will appear in 2019-17 Internal Revenue Bulletin, dated April 22, 2019 and can be found at the following website link: https://www.irs.gov/pub/irs-drop/rp-19-17.pdf.

Representative Earl Blumenauer

Question:
Mr. Secretary. It's good to have you here today (at the hearing). Currently, over 300 million Americans in 47 states have access to some form of state-legal cannabis product. Ten of those states and the District of Columbia – which have a population of 80 million people – have passed laws allowing for the responsible use of cannabis for adults over 21. The National Cannabis Industry Association estimates that the United States marijuana industry could generate over $130 billion in federal tax revenue and add over one million jobs by 2025 if adult use is legalized in all 50 states. However, as you know, state-legal cannabis businesses mostly deal only in cash and are overwhelmingly denied banking services, making their employees and customers become soft targets for crime, robbery, or assault.

1. As the cannabis market continues to develop and as more states enact marijuana laws, do you think additional regulatory clarity by the federal government is needed to allow financial institutions to facilitate traditional banking services to state-legal cannabis businesses as well as adequately address public safety concerns? Does the Department have any estimates on the percentage of legal marijuana - related businesses that are unbanked? Has the Department conducted a study as to how much revenue would be generated for the federal government if such guidance and services were extended?

Answer:

Marijuana remains a controlled substance under U.S. law (The Controlled Substances Act) making it illegal under federal law to manufacture, distribute, or dispense marijuana. Many states have passed or are considering laws which conflict with federal law. Addressing the conflict between state and federal law cannot be done through regulation; a bipartisan legislative solution is required if Congress seeks to resolve the conflict. Treasury has consistently stated that financial institutions are expected to follow the law and reasonably manage their anti-money laundering risks. Treasury's approach remains consistent with the guidance it issued in 2014, setting forth BSA obligations for financial institutions that provide services to marijuana-related businesses. Private institutions make their own risk decisions regarding their banking relationships, which in this case could include marijuana's status as a controlled substance under U.S. law. The Department of the Treasury does not receive or maintain information on the percentage of state-authorized marijuana-related businesses that are unbanked nor has it studied how much revenue would be generated for the federal government if services were extended.

2. Last month, before the House Financial Services Committee, Fiona Ma, California State Treasurer, said the State is expected to collect about $1 billion in cannabis taxes. Does the Department know how much tax revenue was collected from legal cannabis businesses in 2018 by the federal government? Since cannabis-related businesses are forced to pay their federal taxes in cash, do you know how much time and resources are dedicated by the Department to process paper-filed tax returns as compared to electronically filed tax returns?

Do you think Treasury would benefit if state-legal cannabis businesses could pay their fair share of federal taxes electronically?

Answer:
The Department does not have any estimates on revenue for 2018 for cannabis-related businesses. As you suggest by your question, the burden on the Department and the IRS with regards to receiving tax payments in cash would be more significant then electronic payments. The larger issue that your questions raise is a policy concern that Congress is in the best position to address.

3. The 2014 FinCEN guidance regarding Marijuana-Related Businesses is presently in place. Is there any intention from the Department to rescind the FinCEN guidance? Are there any discussions of expanding or altering the current FinCEN guidance?

Answer:
The SAR reporting structure set forth in the February 2014 guidance remains in place. FinCEN continues to work closely with law enforcement and the financial sector to combat illicit finance, and will notify the financial sector and supervisory authorities of any changes to FinCEN's SAR reporting expectations.

Representative Bill Pascrell, Jr.

Question 1:
In 2017, you claimed that the GOP tax bill would pay for itself. In September 2017, you promised, "not only will this tax plan pay for itself, it will pay down debt." But revenues have fallen, *with corporate revenues falling nearly 40 percent* over the year before. In 2017, revenues for 2018 were expected to be 18.1 percent of GDP. After the tax cuts, they were only 16.4 percent. We are now running deficits exceeding $1 trillion a year, a $113 billion increase as a direct result of these tax cuts you advocated for.

Almost every major analysis of the tax bill predicted this -- except for yours. Do you agree that your claim of the tax bill paying for itself has been proven false?

Answer:
No, I do not believe that it has been proven false. The Administration forecasts that enactment of the Tax Cuts and Jobs Act along with President Trump's other economic policies will generate enough additional economic growth over ten years to more than pay for the static cost of the tax bill. Immediate expensing, combined with lower rates and deemed repatriation provisions, are incentivizing economic activity and generating growth. This is evidenced by the 3.0 % growth in the economy in 2018, far exceeding the Congressional Budget Office estimate of 2.2 %, made before President Trump took office. This 0.8% increase in economic growth in the first year is well above the 0.35% boost to economic growth per year that is required for TCJA to pay for itself.

Question 2:

You also claimed that for the highest earners, "their taxes won't go down," but the "Tax Cuts and Jobs Act" (TCJA) lowered the top individual income rate from 39.5 percent to 37 percent. Do you agree that this claim of no tax cuts for those at the top has been proven false?

Answer:
No, the claim is not false. It is true that the top marginal tax rate on ordinary income decreased from 39.6% to 37% because of TCJA, but there are a number of other provisions in the law that, in total, are projected to lead many top-income families to have tax increases and result in a larger share of the total federal tax liability paid by the nation's highest earners. According to the Joint Committee on Taxation (JCT),[1] the share of federal taxes paid by these highest earners will increase from 19.3% to 19.8% in 2019 due to the TCJA.

Question 3:
Is it true that the "Tax Cuts and Jobs Act" used the SALT cap to offset the tax cut for top earners?

Answer:
In its entirety, the TCJA provides a tax cut, but the law contains many provisions that, when considered in isolation, will increase tax liability for families in different income classes. According to the JCT,[2] the enacted modifications to itemized deductions, which include the cap on the deduction for state and local taxes (SALT), will predominately increase tax liability for families in the upper level of the income distribution, with the effect heavily concentrated on those with economic income of $1 million or more. Such tax increases for top earners will offset the tax cut that result from other provisions in the Act.

Question 4:
I understand that it is standard practice for IRS to audit a sitting President's tax returns. Can you confirm today that the President submitted his 2017 tax returns and that the audit was complete and found no issues?

Answer:
This question seeks confidential tax return information about an individual taxpayer. Please see Treasury's May 6, 2019 letter to Chairman Neal regarding the Committee's request for such information.

Question 5:
Can you confirm that the President's tax returns from the years prior to being elected are under audit as he has told the American people on many occasions?

Answer:
This question seeks confidential tax return information about an individual taxpayer. Please see Treasury's May 6, 2019 letter to Chairman Neal regarding the Committee's request for such information.

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[1] https://www.jct.gov/publications.html?func=startdown&id=5173
[2] https://www.jct.gov/publications.html?func=startdown&id=5173

Question 6:
Is there any law which would preclude a President from releasing tax returns under audit?

Answer:
Please see answer to question 5 above.

Question 7:
How do stock buybacks help anyone except wealthy shareholders and CEOs? The evidence shows that corporations used most of their tax cuts not to increase their workers' pay or invest in new equipment, but to buy back their own stock.

Companies spent nearly $1 trillion last year to repurchase a record number of shares, which artificially inflates the stock price and rewards wealthy shareholders and CEOs. Of all the claims that were made about what the tax cuts would do for the U.S. economy, why wasn't the run-up in stock buybacks one of them?

Answer:
Stock buybacks, like dividends, represent the returning of capital to its owners. This occurs when firms generate earnings in excess of their investment opportunities, including both organic growth investment and acquisitions. The academic finance literature, as referenced in Chapter 1 of the Economic Report of the President, documents that this is a better outcome than the firm retaining the cash or potentially using it for low-return investments. By returning the capital to the investors, these proceeds are then reinvested in firms who are seeking capital because their new ventures and innovations require capital in excess of the amount the firm is currently generating. Because the United States is home to liquid, transparent capital markets, share repurchases therefore represent capital recycled towards a higher value use. The funding of high-valued innovation facilitates new product creation to the benefit of consumers as well as the hiring of workers at new or growing ventures.

It is also worth noting that recent academic research finds that more than eighty percent of the aggregate value of the stocks in the S&P 500 is managed by institutional funds. A large percentage of money managed by institutions is on behalf of defined benefit pension and defined contribution retirement plans. According to a 2016 study by the Tax Policy Center, 37% of U.S. stock market value was held in retirement accounts. Nonprofits, such as endowments, owned another 5%. Because saving for retirement is not an activity limited to the wealthy, the improved allocation of capital realized through repurchases benefits ordinary Americans who save for retirement through investments in the stock market.

Question 8:
Why has the TCJA failed to bring most offshore profits back to the U.S.? One of the big selling points of the TCJA was that it would spur businesses to return "trillions" of dollars stored in offshore tax havens back to the U.S. to create jobs and invest in business growth. But as *The New York Times* recently reported, "the global distribution of corporations' offshore profits — our best measure of their tax avoidance gymnastics — hasn't budged from the prevailing trend." It appears that the loopholes that incentivize companies to stash profits offshore still exist, and in

fact may have been strengthened in the tax cut law. Was this anticipated, on purpose, or the result of a sloppy, hastily written tax law?

Answer:
TCJA's Section 965 transition tax is a deemed repatriation tax paid on earnings and profits accumulated overseas, regardless of whether the funds are repatriated to the U.S. While some of these accumulated earnings and profits are in cash that could be easily repatriated to the U.S. if companies have good investment opportunities domestically, a large part are invested in productive uses overseas and therefore not easily repatriated. Further, the stock repurchases you express concern about in another question actually serve as a means through which additional domestic investments are occurring. Shareholders can then take these payouts and put them to productive use elsewhere in the economy, even if it is not the companies directly making the investments.

Question 9:
I am concerned with France's proposed digital services tax designed to target US companies. It may be discrimination against U.S. exports and contrary to WTO rules. It also appears to be an effort to take money from the U.S. tax base. Leading trade experts have noted that this digital tax is discriminatory and operates like a "de facto" tariff on U.S. exports. Can you assure me that you will engage on these issues and fight efforts by France and others to target U.S. firms?

Answer:
Unfortunately, we are seeing a disturbing trend of some politicians, especially in Europe, politicizing the complex issue of seeking genuine fairness in the rules for taxing cross border transactions. This trend is seen most clearly in so-called Digital Services Taxes (DSTs), such as those proposed by France. If implemented unilaterally in various countries, DSTs are likely to:

- Hurt consumers in the countries that implement them;
- Complicate the environment for seeking global consensus for new rules in the OECD; and
- Stifle innovation and global growth because of inconsistent and redundant tax obligations around the world.

The United States believes all companies—regardless of nationality or sector of the economy they operate in—should pay fair rates of taxation. The United States recognizes that changes in business practices in the increasingly digitalized, 21st century global economy are challenging the global consensus that has existed for many years on the rules for taxing cross border transactions.

As a result, the United States is leading efforts in the Organisation for Economic Co-operation and Development (OECD) to seek agreement on new international tax rules. In the OECD, the United States is working with more than 125 countries on a multilateral solution, seeking to craft a global consensus for new rules that will ensure all companies pay fair rates of taxation and will also provide certainty to taxpayers, minimize administrative burdens, and avoid double taxation.

The United States is fully committed to seeing the multilateral OECD process succeed. We believe the ongoing work is on an increasingly positive trajectory and look forward to the G20 endorsing a detailed OECD work plan by June 2019. This work plan is specifically designed and intended to deliver a global consensus on new rules by the end of 2020.

Question 10:
The EU and some of its Member States have been taking a range of actions targeted at U.S. technology companies and digital trade, including a digital tax. These will have broad consequences beyond one sector, since nearly every U.S. company today depends on digital technologies for their growth. What are you doing to address digital protectionist actions from Europe?

Answer:
See Answer #9 Above.

Representative Kenny Marchant*:*

Question 1:
Last week, the Treasury Department released a statement outlining a number of "good government" changes to the tax regulatory process. These are welcome improvements that will reduce confusion and give individuals and businesses greater certainty regarding the tax law.

One of the reforms states that anytime Treasury issues a Notice that announces the Department's position on a tax question and indicates the Department's intention to issue proposed regulations, it will also include a statement that if no proposed regulations or other guidance is released within 18 months, then the Department (including the IRS) will not assert a position adverse to the taxpayer that is based in whole or in part on the Notice.

Mr. Secretary, that is a great step forward, and I applaud Treasury for its effort to improve the tax rulemaking process. However, fairness also requires that the Department take a close look at those Notices that were issued in the past and continue to stifle business activity. In particular, I draw your attention to IRS Notice 2007-55, which effectively discourages foreign investment in US real estate and infrastructure – investment that would create jobs and contribute to economic growth. Just a year and a half ago, 32 of my colleagues on this Committee asked you to repeal the Notice, which states "Treasury and the IRS intend to issue regulations that will clarify the correct interpretation of these provisions." That was 12 years ago. Taxpayers are still waiting for those proposed FIRPTA regulations. Mr. Secretary, will you apply the same principles you asserted last week, repeal Notice 2007-55, and help us attract greater foreign capital to the United States?

Answer:
Treasury is committed to encouraging foreign investment in the United States, including in commercial real estate and infrastructure. One example concerns the exemption for qualified foreign pension funds from FIRPTA as a result of the enactment in 2015 of the PATH Act. The Treasury and the IRS are currently working on a regulatory package to address ambiguities in the statute and expect to issue proposed regulations in 2019. While Treasury is committed to

encouraging investment in the United States, we are also committed to protecting the U.S. tax base. Implementation of the TCJA has been a top priority for Treasury but we will consider Notice 2007-55 once TCJA implementation is further along. We look forward to working with Congress to explore ways in which we can achieve our shared goal of encouraging foreign investment in U.S. infrastructure while protecting the U.S. tax base.

Question 2:
The Tax Cuts and Jobs Act imposed new limitations on the amount of interest that a business can deduct in a given year. For taxable years 2018 through 2021, the limitation is a more generous 30% of Earnings before Interest, Taxes, Depreciation, and Amortization (EBITDA). Beginning in 2022, the amount of interest that a business can deduct is further limited to just 30% of Earnings before Interest and Taxes (EBIT). During the TCJA conference, Congress decided to forego about $50 billion of revenue to provide taxpayers with the more generous EBITDA limitation through 2021 in order to provide a transition and also not inhibit investment in the United States.

On December 28, 2018 the Department of Treasury issued section 163(j) Proposed Regulations that effectively limit an entire group of taxpayers to the more strict EBIT limitation from day one. Under these Proposed Regulations, manufacturers, utilities, and others that capitalize expenses under Tax Code section 263A do not get the congressionally intended benefit of depreciation when calculating their interest deductibility limitation. This Proposed Regulation, if not corrected, will greatly discourage investment in the United States. The TCJA explicitly provides Treasury with the authority to make "other adjustments" to implement congressional intent. Can you look into this issue and ensure that the Final Regulations carry out congressional intent of four years of EBITDA for all taxpayers?

Answer:
Treasury has received comments from a number of taxpayers on this aspect of the section 163(j) proposed regulations and is giving those comments serious consideration. The proposed section 163(j) regulations were issued with a prospective effective date so that issues such as this one can be resolved before the section 163(j) regulations apply to taxpayers. The final section 163(j) regulations will aim to implement the statute in a manner that is fair, avoids unnecessary complexity, and carries out congressional intent.

Question 3:
When Congress included immediate expensing provisions in TCJA to spur wages and economic growth, we balanced it by limiting the deductibility of business interest expense to 30% of income. Recognizing heavy rate-regulation alters economics fundamentals, we also explicitly created an exception whereby interest on regulated public utility debt remains fully deductible. However, I am concerned that the simple formula apportionment method in your proposed 163(j) regulations could subvert Congressional intent by lumping unregulated debt together with debt held by regulated public utilities – debt that only can be used directly for regulated utility purposes. Public regulators strictly control how much debt utility companies maintain and how they use it, so debt at the regulated public utility level should be clearly and fully excepted from the limitation. Doing so protects the utility customers for whom we created this exception in the first place. While it makes sense to allocate any remaining holding

company debt between regulated and unregulated activities based on metrics such as assets or income, please confirm that all of the debt that exclusively supports regulated public utility services will fall within the exception that Congress intended once your regulations are finalized?

Answer:
Treasury has received numerous comments on the allocation of interest expense between regulated utilities and trades or businesses that are not excepted from the application of section 163(j). The allocation of interest expense for this purpose is a complex issue that requires balancing the concerns of numerous stakeholders with different factual circumstances with the need for clear and administrable rules. The proposed section 163(j) regulations implemented an allocation approach requested by the majority of commenters at that time. However, as Treasury works to finalize the proposed section 163(j) regulations, careful consideration will be given to all comments received on this allocation method set forth in the proposed regulations, including this comment.

Question 4:
An unrelated issue affects a much broader group of taxpayers beyond just regulated utilities. The current interpretation of section 163(j)(8)(A)(v) in the proposed section 163(j) regulations puts capital-intensive manufacturers and producers at a significant disadvantage. These taxpayers represent a significant portion of the business community in the United States. Because the vast majority of these taxpayers' depreciation and amortization is capitalized under section 263A, the proposed regulations, in effect, accelerate the application of the post 2021 section 163(j) rules to 2018 for certain taxpayers, an impact that was not expected to occur under tax reform until 2022. As was highlighted during the negotiations surrounding the tax reform bill, this timing does not allow sufficient time for rational revision of major debt facilities. As a result, these taxpayers experience a disproportionately increased cost of capital and, thus, are discouraged from job creating investment in the United States. To ensure equitable treatment among taxpayers and that the application of 163(j) remains consistent with Congressional intent, it seems depreciation and amortization should be allowed as an addition to adjusted taxable income regardless of whether those items were capitalized under Section 263A. Can you confirm whether Treasury intends to exercise its authority to ensure that this addback is allowed?

Answer:
See response to #2 above.

Question 5:
Lastly: I think that we can all agree that treating similarly situated taxpayers equally is a cornerstone principle of tax policy. With that in mind, the IRS recently announced that corporate Alternative Minimum Tax (AMT) refunds received under the TCJA will no longer be subject to sequestration, but AMT refunds received by taxpayers in lieu of claiming bonus depreciation (Tax Code section 168(k)(k)) will remain subject to sequestration.

I strongly believe there is no policy rationale to treat these taxpayers differently - particularly in this case where the AMT credits represent pre-payments or overpayments of tax (not spending)

and therefore should not be subject to sequester in the first place. I would appreciate it if you would look into why these taxpayers are being treated differently and let me know what can be done to remedy the situation.

Answer:
The recent IRS announcement with regards to the sequestration of corporate AMT credits was a decision by the Office of Management and Budget (OMB), made in coordination with the Office of Tax Policy in Treasury and the Internal Revenue Service. The issue of sequestration that you highlight is best answered by OMB.

Representative Brian Higgins

Question 1:
Each time a new vaccine is developed and approved for safe use by the Food and Drug Administration and Centers for Disease Control and Prevention, Congress must individually authorize the Department of the Treasury to apply a 75-cent excise tax on each vaccine dose in order to fund the Vaccine Injury Compensation Program (VICP). Has the Administration considered proposals to streamline this process?

The current approach of adding the VICP excise tax to each vaccine individually can delay full market access, potentially limiting patients' abilities to receive new life-saving vaccines. I recently introduced legislation, the Vaccine Access Improvement Act (H.R. 4993 in the 115th Congress) to automatize this process immediately upon the vaccine's approval by the FDA and CDC, expediting the distribution of these critical therapies to the public. What is the Administration's position on H.R. 4993 (115th), the Vaccine Access Improvement Act?

Answer:
The Administration is not in a position to comment on the proposed legislation at this time, however the Treasury Department is willing to provide technical assistance on the proposals that would streamline the process.

Representative Donald S. Beyer Jr.

Question 1:
The *Wall Street Journal* reported that in June 2018 that you and your Counselor Dan Kowalski personally met with Steve Wynn, the former Republican National Committee finance chair, regarding forthcoming Treasury regulations on the Opportunity Zone tax benefit. As the *Journal* reported, Wynn faced a September 2018 deadline for rolling over his gain from the Wynn Resorts stock he divested when forced out as CEO due to rape and sexual misconduct allegations, in order to avoid a massive capital gains tax bill. The facts reported by the *Journal* suggest that Wynn was seeking to influence or to gain information about the regulations that Treasury was then in the process of writing.

- Please describe the content of that meeting, including any discussion of specific aspects of the forthcoming regulations or Treasury's interpretation of the Opportunity Zone statute.
- Please explain why Treasury has not responded to the *Journal*'s Freedom of Information Act request, referenced in the article.
- Please disclose any other communications between Treasury personnel and Wynn or his representatives.
- Were any White House staff, including Jared Kushner and Ivanka Trump, consulted about the Opportunity Zone tax benefit while Treasury was in the process of drafting these regulations? If so, please identify the White House staff members by name and describe (i) the exact role that they played, (ii) how frequently they were consulted, and (iii) at what stage of the process they were consulted.
- Please disclose any communications regarding the Opportunity Zone statute and regulations with current or former White House staff who have been reported to have a financial stake in OZ funds, including White House advisors Jared Kushner and Ivanka Trump, Kushner Companies, Cadre Investments, and former Communications Director Anthony Scaramucci, his firm SkyBridge Capital, or any representatives of the aforementioned.

Answer:
Treasury meets with a broad range of stakeholders related to the economic development and tax benefits that the Opportunity Zones initiative provides.

Question 2:
In addition, many community organizations and experts have emphasized that the Opportunity Zones rules contain no requirements that investments qualifying for the substantial OZ tax benefits actually benefit local residents. They have also criticized the program's lack of transparency. Accordingly:

- What concrete actions are you taking to ensure that the OZ tax incentives are not abused to reward investment that harms zone residents, including by displacing tenants or local businesses and raising rents?
- Will Treasury define the term "abuse" in Section 1400Z-2(3)(4)(C) to include investments that displace or otherwise harm zone residents?
- How is Treasury ensuring that data is collected on the use of OZs, including requiring that funds track and report metrics including (but not limited to): the location, type, and amount of each investment; the distribution of investments and tax benefits across

opportunity zones; information on fund investors; number of living wage jobs created; number of living wage jobs created for zone residents; number of affordable housing units built, including as a percentage of total units; and level of subcontracting with local businesses owned by people of color, women, and other socioeconomically marginalized resident groups?

Answer:
In enacting the Opportunity Zone tax regime, Congress defined eligible census tracts with particularity and then vested in State governors the discretion to decide which tracts from this group would become Opportunity Zones. I understand that some governors avoided nominating gentrifying tracts that they expected to experience economic growth even without the added impetus of Opportunity Zone tax incentives. Nothing either in the Opportunity Zone law or in our administration of it interferes with State and local land-use rules or with State and local protections for current residents and businesses. In the absence of a statutory mandate, however, we do not deny tax benefits to individuals or firms that have satisfied the relevant statutory criteria.

On April 17, 2019 we released the text of a Notice and Request for Information, which will soon appear in the *Federal Register*. This request seeks public comment on the data that would be most valuable to collect and the least burdensome means of collecting those data. We would welcome your concrete suggestions in that process.

Question 3:
I think we all agree that IRS enforcement cannot and must not be used as a tool for political purposes. The other side of that coin is that political status should not protect anyone from legitimate tax enforcement activities. Do you agree?

Answer:
Yes.

Question 4:
Leaving the release of the President's tax returns to the side, we've now seen several public and well sourced accusations of tax malfeasance against the President and his family. I don't know that it has, but this seems like the sort of thing that would normally trigger an in-depth tax compliance investigation, beyond merely the mandatory review of his returns while in office.

- Has the president discussed the possibility of a tax investigation of himself or his family with you?

Answer:
No.

- Are IRS and Treasury employees free to follow the facts without political interference?

Answer:
Yes, and that is true with respect to all taxpayers.

- Will you commit to not interfering in enforcement activities for political reasons and commit to protecting their ability to follow the facts?

Answer:
Yes.

Representative Jimmy Panetta

Question 1:
Mr. Secretary, I would like to ask you to take a look at an issue that is impacting economic development in Indian Country that hopefully can be easily resolved.

It is my understanding that the IRS has yet to release guidance on the Tribal Economic Development Bond program (TEDB) that clarifies that tribal governments who received an allocation can refinance their debt without having to receive a second allocation for the same project. IRS has similar guidance to this effect for other non-tribal bond programs, such as the Gulf Opportunity Zone Program and the Liberty Bond Program. With a number of Tribal Governments needing to refinance their debt in the near future, and TEDB already listed as a program slated for guidance in 2019 in the Service's 2019 Priority Guidance Plan, it is my hope that you will quickly make this authority clear. Can the Secretary provide further information to my office regarding forthcoming guidance for the TEDB program?

Answer:
Treasury and IRS have an active priority guidance project to address this issue favorably to allow current refinancings or current refundings of Tribal Economic Development Bonds within parameters comparable to those allowed in other similar bond programs in previous guidance. These transactions generally are favored transactions as a policy matter because they are done mainly to reduce borrowing costs and they also reduce the Federal costs of the associated tax benefit for tax-exempt bonds. We expect to be able to issue this guidance soon.

Rep. David Schweikert

Question 1:
Secretary Mnuchin, as you know my District and state of Arizona is home to several large national companies, especially large national retailers of various types. Many of my constituent companies are happy and pleased with the Department's and the Congress' work to level the playing field for job generating companies by adjusting the corporate tax rates. Additionally, through our hard work, we have been able to put more money back in the hand and pockets of taxpayers. As with any significant legislation, there are occasionally problems identified after Congress and the Administration have initially acted that require some further attention.

Some of my constituent companies have reached out on the NOL issue in section 13302 of PL 115-97, which has caused the company significant hardship due to the issue regarding the applicable fiscal year date. One of these companies has already had to close stores in my state and district.

I am writing to ask you if the Department can address the NOL issue by guidance and regulation versus legislative language? If legislative text is the only means to resolve the language, what precise language is needed?

I look forward to hearing from you.

Answer:
The Treasury Department is aware that the effective date relating to the changes in NOL carryforwards and carrybacks applies to fiscal-year taxpayers up to 11 months earlier than it applies to calendar-year taxpayers. As there is no ambiguity in the legislative language and Treasury has determined that we cannot change the effective date for this provision through regulatory guidance, a simple change to the legislative text is needed. Changing the text "ending after" as it appears in section 13302(e)(2) of the TCJA to "beginning after" would address this issue.